

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

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|-------------------------------|---|-------------------------------|
| DONNIE L. HARRIS, JR., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. CIV 20-282-RAW-KEW |
| |) | |
| TOMMY SHARP, Warden, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER

Petitioner, a death-sentenced state prisoner who is incarcerated at Oklahoma State Penitentiary in McAlester, Oklahoma, has filed a pro se motion for appointment of counsel to assist in the preparation, filing, and presentation of a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. No. 2). He is requesting, pursuant to 18 U.S.C. § 3599(e) and *McFarland v. Scott*, 512 U.S. 849 (1994), that experienced habeas corpus attorneys be appointed to represent him in all authorized respects. He specifically requests appointment of the Death Penalty Federal Habeas Corpus Division of the Federal Public Defender's Office of the Western District of Oklahoma, which reportedly serves all federal districts in Oklahoma. Petitioner asserts he is indigent, and his motion for leave to proceed *in forma pauperis* indicates he has \$344.84 in his institutional accounts (Dkt. No. 1 at 3).

The applicable statute provides in pertinent part:

In any post conviction proceeding under section 2254 . . . of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled

to the appointment of one or more attorneys . . . and the furnishing of such other services in accordance with subsections (b) through (f).

18 U.S.C. § 3599(a)(2). Further, “the right to appointed counsel adheres prior to filing of a formal, legally sufficient habeas corpus petition.” *McFarland*, 512 U.S. 849, 854-55.

After careful review, the Court finds that appointment of counsel is warranted, therefore, Petitioner’s motion for appointment of counsel is GRANTED. The Death Penalty Federal Habeas Corpus Division of the Federal Public Defender’s Office of the Western District of Oklahoma is hereby appointed to represent Petitioner in his federal habeas proceedings. The Court Clerk is directed to send a copy of this Opinion and Order to the Death Penalty Federal Habeas Corpus Division of the Federal Public Defender’s Office of the Western District of Oklahoma. The Federal Public Defender’s Office shall designate an attorney to file an entry of appearance within seven (7) days of receipt of this Opinion and Order.

Petitioner also has requested that the Court stay the running of any limitations period until counsel is appointed and submits a petition for a writ of habeas corpus. This request is DENIED WITHOUT PREJUDICE, because Petitioner has failed to provide any legal authority in support of the request.

ACCORDINGLY,

1. Petitioner's motion for appointment of the Death Penalty Federal Habeas Corpus Division of the Federal Public Defender's Office of the Western District of Oklahoma (Dkt. No. 2) is GRANTED.

2. Petitioner's request to stay the applicable statute of limitations (Dkt. No. 2) is DENIED WITHOUT PREJUDICE.

3. The Court Clerk is directed to send a copy of this Opinion and Order to the Death Penalty Federal Habeas Corpus Division of the Federal Public Defender's Office of the Western District of Oklahoma.

4. The Federal Public Defender's Office shall designate an attorney to file an entry of appearance within seven (7) days of receipt of this Opinion and Order.

IT IS SO ORDERED this 27th day of August 2020.

A handwritten signature in black ink, reading "Ronald A. White", is written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma